

8 FEB 1971

MEMORANDUM FOR: Executive Director-Comptroller

SUBJECT: Proposed CIA Retirement Act Amendments,
"Second Spouse"

1. Among other things, P. L. 91-658, approved 8 January 1971, enlarges the area of eligibility for a spouse to receive survivor benefits under the Civil Service retirement system. The change in concept reflected in this new law is valid for all Federal retirement systems, including the CIA retirement system, but so far, the law has been changed only for the Civil Service system. In the absence of comparable changes in the CIA Retirement Act, the following inequities could arise concerning the payment of survivor annuities to a spouse under the CIA, rather than the Civil Service, retirement system:

a. Widower of Female Employee

The non-dependent widower of a female employee dying in service would not be eligible for a survivor annuity (e. g. minimum of 55% of 40% of average basic salary).

b. Unmarried Retirees

The surviving spouse of an employee unmarried at the time of retirement would not be eligible for a survivor annuity.

c. Married Retiree

A retiree's annuity reduced at the time of retirement to provide for a survivor annuity for spouse would continue at the reduced rate following the death of the spouse, but any subsequent spouse would not be eligible for the survivor annuity.

2. P.L. 91-658 also provides that any supplemental annuity earned by a married retiree who re-enters Federal employment following retirement shall be included in the calculation of annuity for the surviving spouse. Possibly, application of this concept to the CIA Retirement Act is neither feasible nor warranted in light of the complexity involved and the possibility that the relatively small potential increase in survivor annuities may be more than offset by Social Security benefits which could be otherwise earned during the re-employment period.

3. Proposed legislation updating the CIA Retirement Act to the provisions of P. L. 658 as set forth in paragraph 1 above is attached. The key staff personnel of the Senate and House Armed Services Committee foresee no problems in our obtaining favorable consideration of these conforming amendments and, indeed, are expecting that we will be transmitting them to the Congress shortly.

4. The pros and cons of proceeding at this time

The importance of obtaining these amendments must of course be weighed against our interests in maintaining a low profile on the Hill. In evaluating these interests, the following factors seem relevant:

a. Equity

In any one case, the inability to make payments under the CIA Retirement Act would be a gross inequity since fundamental concepts are involved and there is no reason for the CIA system to be different from the Civil Service system.

b. Timing

Generally we have been most successful in moving legislation at the close of a Congressional session. Also, action late in a Congressional session presents an opportunity to pick up any new legislation items approved earlier in that session (the problems encountered in getting a bill through the Congress are substantially the same regardless of the number of provisions it contains). Finally, action at the close of a session presents a lower profile in the mass of legislation normally moved routinely through the Congress as adjournment nears. However, we would not be foreclosing any of our options on the timing of Congressional action by transmitting our proposal to OMB at this time.

c. Funding

Any proposed CIA Retirement Act amendments we submit to OMB will probably again trigger the need to resolve the funding question (See Attachment B). The Director of Finance and the Director of Personnel believe that it is in our interests to resolve the funding question as soon as possible, although no emergency is involved and a delay beyond the close of the 92nd Congress could be tolerated without serious effect. Our position on funding of the CIA Retirement Act is that we would be willing to adopt the system approved for Civil Service and Foreign Service by the last Congress. The outstanding issue to be resolved involves all major Federal staff retirement systems and concerns a uniform definition of the key term "unfunded liability". The Director of Finance believes that it makes no real difference to this Agency and the employees covered under the CIA retirement system whether the term is defined in accordance with the existing law for Civil Service and Foreign Service or as proposed by Treasury.

d. Number of Cases

Based on the data available to the Director of Personnel, there is no known case as of this date of a surviving spouse covered under the CIA Retirement Act being denied a survivor annuity solely because we have not obtained changes comparable to those enacted in P. L. 91-658. The longer the delay in obtaining parallel amendments, the greater the probability that we will have such cases, although this potential problem can be overcome somewhat if we succeed in making the amendments retroactive. We have been successful in this regard in the past, but in general, the Congress is reluctant to provide for retroactivity.

e. Climate in Committee

The senior staff members of our Armed Services Committee foresee no problem in early action on the amendments. However, our low profile is not to overcome a problem we have with the Committees, but potential problems we might have on the floor.

5. Recommendation

In view of the above considerations it appears, on balance, that it would be best to transmit the attached proposed CIA Retirement Act amendments to the Office of Management and Budget now. Timely transmittal will strengthen our case for an effective date identical to the effective date of the Civil Service amendments, if needed. It will also precipitate a resolution, hopefully, of the outstanding funding problems. Such action would not foreclose our option to delay actual Congressional consideration following OMB's clearance, since there is no general requirement to transmit proposed legislation to the Congress following OMB's approval. A further safeguard

on timing is that proposed legislation could be held up in the Armed Services Committee until the time is right. For these reasons, transmittal at this time to OMB is strongly recommended.

STATINTL

[REDACTED]

John M. Matly
Legislative Counsel

STATINTL

CONCURRENCE:

[REDACTED]

Feb '71

Date

Feb '71

Date

8 Feb. '71

Date

Feb 1971

Date

25 Feb 71

Date

Executive Director-Comptroller

Distribution:

- Original - Return to OLC
- 1 - Ex. Dir. - Compt.
- 1 - OGC
- 1 - DDS
- 1 - D/Personnel
- 1 - D/Finance

*Discussed with
DCI 25 Feb 71*

[REDACTED]

STATINTL

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM: Acting Director of Personnel
5 E 56 HQ

EXTENSION: 6825

NO. DD/S 70-4613

DATE: 28 NOV 1970

TO: (Officer designation, room number, and building)

DATE RECEIVED FORWARDED

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. Acting Deputy Director for Support
7 D 18 HQ

25 NOV

As requested, we have reviewed the attached material relating to the pending new amendments to the Civil Service Retirement System. We believe that these changes are sound and will serve to keep our system comparable to the CSRA. We recommend, therefore, that we seek similar amendments to the CIARDS. You will probably also want to update the "Director's Remarks" and other supporting material to prepare us for necessary action if the amendments are approved and we decide to incorporate them in the present retirement package.

2.

3. Legislative Counsel
7 D 35 HQ

4.

5. Please brief us on this LLM - at a morning meeting.

6.

7.

8. LLM

9.

10.

11.

12. 30 November called J.W.C. to assure him we were pushing and

13. Drought him up to date thru 23 Nov. (GLC/560)

14. and in response to his question told him we believe we have better than 50/50 chance of moving before adjournment.

15.

Acting Director of Personnel
1 to 3 -

1. We agree with both OP paragraphs above.

2. We hope that the legislative package already submitted is being pushed during this session.

John W. Coffey

Attachment A

STATINTL

STATINTL

STATINTL

13 NOV 1970

A BILL

To amend the Central Intelligence Agency Retirement Act of 1964 for
Certain Employees, as amended, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of
2 the United States of America in Congress assembled, That --

3 Section 1. Section 204 of the Central Intelligence Agency Retire-
4 ment Act of 1964 for Certain Employees, as amended, (78 Stat. 1043;
5 50 U.S.C. 403 note) is amended --

6 (a) by striking "dependent" in subsection (a);

7 (b) by striking "Dependent widowers" and inserting "Widower"
8 in lieu thereof in subsection (b) (2); and

9 (c) by inserting "." before the ",", and striking the remainder of
10 the sentence in subsection (b) (2).

11 Section x. Section 221(b) of the Central Intelligence Agency
12 Retirement Act (50 U.S.C. 403 note) is amended to read as follows:

13 "(b)(1) If a participant who is married at the time of retirement
14 dies the surviving spouse to whom the participant was married at the
15 time of retirement, or the widow or widower to whom the participant
16 was married after retirement, is entitled to an annuity equal to 55
17 percent of the amount of the participant's annuity computed as pre-
18 scribed in paragraph (a) of this section, up to the full amount of such

1 annuity specified by the participant as the base for such survivor
2 benefits at the time of retirement. The annuity of the participant
3 shall be reduced by 2 1/2 per centum of any amount up to \$3600
4 specified as the base for such survivor benefit by the participant
5 plus 10 per centum of any amount over \$3600 so specified.

6 "(2) If an annuitant dies after having elected a reduced annuity
7 provided in paragraph (2) of section 221(f) the surviving widow or
8 widower is entitled to an annuity computed as prescribed in paragraph
9 (1) of this subsection.

10 "(3) A spouse acquired after retirement is entitled to a survivor
11 annuity under this subsection only upon electing this annuity instead
12 of any other survivor benefit to which he may be entitled under this
13 or another retirement system for Government employees. The annuity
14 of the surviving spouse, widow, or widower under this subsection
15 commences on the day after the annuitant dies. This annuity and the
16 right thereto terminate on the last day of the month before the surviving
17 spouse, widow, or widower --

18 "(A) dies; or

19 "(B) remarries before becoming 60 years of age."

20 Section xxx. Section 221(f) of the Central Intelligence Agency
21 Retirement Act (50 U.S.C. 403 note) is amended --

(1) by inserting "(1)" immediately after "(f)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) A participant, who is unmarried at the time of retiring and who later marries, may irrevocably elect, in a signed writing received by the Director within 1 year after the marriage, a reduced annuity as provided in section 221(b). The reduced annuity is effective the first day of the month after the election is received by the Director. The election voids prospectively any election previously made under the provisions of paragraph (1) of this subsection."

Section xxx. Section 232(b) of the Central Intelligence Agency Retirement Act (50 U.S.C. 403 note) is amended --

(1) by striking "dependent" wherever it occurs; and

(2) by inserting a "." after "section 221(g)" and striking the remainder of the section.

Section xxxx. (a) The amendments made by sections 1, x, and xxx shall not apply in the case of participants who died before _____ [date of enactment identical to Civil Service amendment] and the rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted.

- 1 (b) The amendment made by section xx shall apply to a participant
- 2 who was unmarried at the time of retiring, but who later married,
- 3 only if the election is made within one year after enactment.

CHANGES IN EXISTING LAW

Changes in existing law made by the draft bill are shown as follows:
existing law in which no change is proposed is shown in roman; existing law
proposed to be omitted is enclosed in brackets; new matter is underscored.

Central Intelligence Agency Retirement Act of 1964 for Certain
Employees, as amended (78 Stat. 1043; 50 U.S.C. 403 note).

* * * * *

TITLE II -- THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Part A -- Establishment of System Rules and Regulations

* * * * *

Annuitants

SEC. 204. (a) Annuitants shall be participants who are receiving annuities from the fund and all persons, including surviving wives and husbands, widows, [[dependent]] widowers, children, and beneficiaries of participants or annuitants who shall become entitled to receive annuities in accordance with the provisions of this Act.

(b) When used in this Act the term --

* * * * *

(2) "Widower" ["Dependent widower"] means the surviving husband of a participant who was married to such participant for at least two years immediately preceding her death or is the father of issue by marriage to the participant, [, and who is incapable of self-support by reason of mental or physical disability, and who received more than one-half of his support from such participant.]

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Part C -- Computation of Annuities

SEC. 221.

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(b) (1) If a participant who is married at the time of retirement dies the surviving spouse to whom the participant was married at the time of retirement, or the widow or widower to whom the participant was married after retirement, is entitled to an annuity equal to 55 percent of the amount of the participant's annuity computed as prescribed in paragraph (a) of this section, up to the full amount of such annuity specified by the participant as the base for such survivor benefits at the time of retirement. The annuity of the participant shall be reduced by 2 1/2 per centum of any amount up to \$3600 specified as the base for such survivor benefit by the participant plus 10 per centum of any amount over \$3600 so specified.

(2) If an annuitant dies after having elected a reduced annuity provided in paragraph (2) of section 221(f) the surviving widow or widower is entitled to an annuity computed as prescribed in paragraph (1) of this subsection.

(3) A spouse acquired after retirement is entitled to a survivor annuity under this subsection only upon electing this annuity instead of any other survivor benefit to which he may be entitled under this or another retirement system for Government employees. The annuity of the surviving spouse, widow, or widower under this subsection commences on the day after the annuitant dies. This annuity and the right thereto terminate on the last day of the month before the surviving spouse, widow, or widower--

(A) dies; or

(B) remarries before becoming 60 years of age.

[(b) At the time of retirement, any married participant may elect to receive a reduced annuity and to provide for an annuity payable to his wife, or her husband, commencing on the date following such participant's death and terminating upon the death or upon remarriage prior to attaining age sixty of such surviving wife or husband. The annuity payable to the surviving wife or husband after such participant's death shall be 55 per centum of the amount of the participant's annuity computed as prescribed in paragraph (a) of this section, up to the full amount of such annuity specified by him as the base for the survivor benefits. The annuity of the participant making such election shall be reduced by 2 1/2 per centum of any amount up to \$3,600 he specified as the base for the survivor benefit plus 10 per centum of any amount over \$3,600 so specified.]

* * * * *

(f) (1) Any unmarried participant retiring under the provisions of this Act and found by the Director to be in good health may at the time of retirement elect a reduced annuity, in lieu of the annuity as hereinbefore provided, and designate in writing a person having an insurable interest (as that term is used in section 9 (h) of the Civil Service Retirement Act (5 U. S. C. 2259 (h))) in the participant to receive an annuity after the participant's death. The annuity payable to the participant making such election shall be reduced by 10 per centum of an annuity computed as provided in paragraph (a) of this section, and by 5 per centum of an annuity so computed for each full five years the person designated is younger than the participant, but such total reduction shall not exceed 40 per centum. The annuity of a survivor designated under this paragraph shall be 55 per centum of the reduced annuity computed as prescribed above. [[The annuity payable to a beneficiary under the provisions of this paragraph shall begin on the first day of the next month after the participant dies. Upon the death of the surviving beneficiary all payments shall cease and no further annuity payments authorized under this paragraph shall be due or payable.]]

(2) A participant, who is unmarried at the time of retiring and who later marries, may irrevocably elect, in a signed writing received by the Director within 1 year after the marriage, a reduced annuity as provided in section 221(b). The reduced annuity is effective the first day of the month after the election is received by the Director. The election voids prospectively any election previously made under the provisions of paragraph (1) of this subsection.

* * * * *

DEATH IN SERVICE

SEC. 232

* * * * *

(b) If a participant, who has at least eighteen months of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of section 251 or 252(a) (2), dies before separation or retirement from the Agency and is survived by a widow or a [[dependent]] widower, as defined in section 204, such widow or [[dependent]] widower shall be entitled to an annuity equal to 55 per centum of the annuity computed in accordance with the provisions of section 221(a), except that the computation of the annuity of the participant under such section shall be at least the smaller of (i) 40 per centum of the participant's average basic salary, or (ii) the sum obtained under such section after increasing the participant's service of the type last performed by the difference between his age at the time

of death and age sixty. The annuity of such widow or [[dependent]] widower shall commence on the date following death of the participant and shall terminate upon death or upon remarriage prior to attaining age sixty of the widow or [[dependent]] widower (subject to the payment and restoration provisions of section 221(g)). [[, or upon the dependent widower's becoming capable of self-support.]]

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SEC. xxxx. (a) The amendments made by sections l, x, and xxx shall not apply in the case of participants who died before [date of enactment identical to Civil Service amendment] and the rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted.

(b) The amendment made by section xx shall apply to a participant who was unmarried at the time of retiring, but who later married, only if the election is made within one year after enactment.

Union Calendar No. 715

91ST CONGRESS
2^D SESSION

S. 437

[Report No. 91-1469]

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 1970

Referred to the Committee on Post Office and Civil Service

SEPTEMBER 24, 1970

Reported with an amendment, committed to the Committee of the Whole House
on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

AN ACT

To amend chapter 83 of title 5, United States Code, relating to
survivor annuities under the civil service retirement program,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That ~~(a)~~ section 8341~~(a)~~ of title 5, United States Code,
4 is amended—

5 ~~(1)~~ by inserting “and” after paragraph ~~(2)~~;

6 ~~(2)~~ by striking out paragraph ~~(3)~~; and

7 ~~(3)~~ by renumbering paragraph “~~(4)~~” as para-
8 graph “~~(3)~~”.

9 ~~(b)~~ Section 8341~~(d)~~ of title 5, United States Code, is
10 amended—

1 ~~(1)~~ by striking out "dependent widower" wherever
2 it appears and inserting "widower" in place thereof;

3 ~~(2)~~ by striking out paragraph ~~(2)~~; and

4 ~~(3)~~ by renumbering paragraphs "~~(3)~~" and "~~(4)~~"
5 as paragraphs "~~(2)~~" and "~~(3)~~", respectively.

6 ~~(c)~~ Section 8341(c) ~~(2)~~ of title 5, United States Code,
7 is amended by striking out subsection "~~(a)~~ ~~(4)~~" and insert-
8 ing subsection "~~(a)~~ ~~(3)~~" in place thereof.

9 Sec. 2. ~~(a)~~ Section 8344(a) of title 5, United States
10 Code is amended by inserting after the fourth sentence the
11 following new flush sentence: "If the annuitant on termina-
12 tion of employment is married to a spouse potentially entitled
13 to annuity as surviving spouse under section 8341 of this
14 title, the supplemental annuity payable under the fourth
15 sentence of this subsection is reduced by 10 percent and the
16 spouse is entitled to an annuity equal to 55 percent of the
17 supplemental annuity commencing and terminating at the
18 same times as the survivor annuity payable under section
19 8341 of this title, unless at the time of claiming the supple-
20 mental annuity the annuitant notifies the Civil Service Com-
21 mission in writing that he does not desire his spouse to receive
22 this annuity."

23 ~~(b)~~ Section 8344(a) is further amended by striking out
24 the following: "The employment of an annuitant under this

1 subsection does not create an annuity for or affect the annuity
2 of a survivor."

3 SEC. 3. ~~(a)~~ Section 8339(i) is amended by striking
4 out "his spouse" and inserting in lieu thereof "any spouse
5 surviving him."

6 ~~(b)~~ Section 8341(b) is amended—

7 ~~(1)~~ by inserting after "to whom he was married
8 at the time of retirement," "or who qualifies as a widow
9 or widower under section 8341(a)," and

10 ~~(2)~~ by striking out "does not desire his spouse"
11 and inserting in lieu thereof "does not desire any spouse
12 surviving him," and

13 ~~(3)~~ by adding at the end thereof the following new
14 sentence: "A spouse acquired after retirement is entitled
15 to a survivor annuity under this paragraph only if he
16 elects to receive it instead of any other survivor annuity
17 to which he may be entitled under this subchapter or
18 another retirement system for Government employees."

19 ~~(c)~~ Section 8339(j) of title 5, United States Code, is
20 amended—

21 ~~(1)~~ by inserting "~~(1)~~" after the subsection designation "~~(j)~~"; and

23 ~~(2)~~ by inserting at the end thereof the following
24 new paragraph:

1 “(2) An employee or Member who is unmarried at
2 the time of retiring or an annuitant who is unmarried at
3 the time of separation and who later marries may, within one
4 year after he marries, elect a reduced annuity with benefit
5 to surviving spouse as provided in section 8341(b). His
6 annuity is recomputed and paid under the provisions of sec-
7 tion 8339(i) effective the first day of the month after his
8 written election is received in the Civil Service Commission.
9 An election under this paragraph voids prospectively any
10 election previously made under paragraph (1) of this sub-
11 section.”

12 SEC. 4: (a) The amendments made by sections 1 and 3
13 of this Act shall not apply in the cases of employees, Mem-
14 bers, or annuitants who died prior to the date of enactment
15 of this Act. The rights of such persons and their survivors
16 shall continue in the same manner and to the same extent as
17 if such amendments had not been enacted.

18 (b) The amendments made by section 2 of this Act shall
19 apply only with respect to reemployed annuitants whose em-
20 ployment terminates on or after the date of enactment of this
21 Act.

22 That section 8332(f) of title 5, United States Code, is
23 amended by inserting immediately after the first sentence
24 thereof the following new sentence: “An employee or former
25 employee who returns to duty after a period of separation

1 is deemed, for the purpose of this subsection, to have been in
2 a leave of absence without pay for that part of the period
3 in which he was receiving benefits under subchapter I of
4 chapter 81 of this title or any earlier statute on which such
5 subchapter is based.”.

6 SEC. 2. (a) Section 8339(i) of title 5, United States
7 Code, is amended by striking out “his spouse” and inserting
8 in lieu thereof “any spouse surviving him”.

9 (b) Section 8339(j) of title 5, United State Code, is
10 amended—

11 (1) by inserting “(1)” immediately after “(j)”;

12 and

13 (2) by adding at the end thereof the following new
14 paragraph:

15 “(2) An employee or Member, who is unmarried at the
16 time of retiring and who later marries, may irrevocably
17 elect, in a signed writing received in the Commission within
18 1 year after he marries, a reduced annuity as provided in
19 subsection (i) of this section. His reduced annuity is effec-
20 tive the first day of the month after his election is received in
21 the Commission. The election voids prospectively any election
22 previously made under paragraph (1) of this subsection.”.

23 SEC. 3. (a) Section 8341(a) of title 5, United States
24 Code, is amended—

1 (1) by inserting "and" at the end of paragraph
2 (2)(B);

3 (2) by striking out paragraph (3); and

4 (3) by renumbering paragraph (4) as paragraph
5 (3).

6 (b) Section 8341(b) of title 5, United States Code,
7 is amended to read as follows:

8 “(b)(1) If an employee or Member dies after having
9 retired under this subchapter and is survived by a spouse
10 to whom he was married at the time of retirement, or by a
11 widow or widower whom he married after retirement, the
12 spouse, widow, or widower is entitled to an annuity equal to
13 55 percent of an annuity computed under section 8339 (a)-
14 (h) of this title as may apply with respect to the annuitant, or
15 of such portion thereof as may have been designated for this
16 purpose under section 8339(i) of this title, unless the em-
17 ployee or Member has notified the Commission in writing at
18 the time of retirement that he does not desire any spouse sur-
19 viving him to receive this annuity.

20 “(2) If an annuitant dies after having elected a re-
21 duced annuity provided in paragraph (2) of section 8339(j)
22 of this title and is survived by a widow or widower, the widow
23 or widower is entitled to an annuity equal to 55 percent of an
24 annuity computed under section 8339 (a)-(h) of this title
25 as may apply with respect to the annuitant, or of such portion

7

1 thereof as may have been designated for this purpose under
2 section 8339(i) of this title.

3 “(3) A spouse acquired after retirement is entitled to a
4 survivor annuity under this subsection only upon electing
5 this annuity instead of any other survivor benefit to which
6 he may be entitled under this subchapter or another retirement
7 system for Government employees. The annuity of the spouse,
8 widow, or widower under this subsection commences on the
9 day after the annuitant dies. This annuity and the right
10 thereto terminate on the last day of the month before the
11 spouse, widow, or widower—

12 “(A) dies; or

13 “(B) remarries before becoming 60 years of age.”.

14 “(c) Section 8341(d) of title 5, United States Code, is
15 amended to read as follows;

16 “(d) If an employee or Member dies after completing at
17 least 18 months of civilian service, his widow or widower
18 is entitled to an annuity equal to 55 percent of an annuity
19 computed under section 8339 (a)–(e) and (h) of this title
20 as may apply with respect to the employee or Member,
21 except that, in the computation of the annuity under such
22 section, the annuity of the employee or Member shall be at
23 least the smaller of—

24 “(1) 40 percent of his average pay; or

25 “(2) the sum obtained under such section after in-

1 creasing his service of the type last performed by the
2 period elapsing between the date of death and the date
3 he would have become 60 years of age.

4 The annuity of the widow or widower commences on the
5 day after the employee or Member dies. This annuity and
6 the right thereto terminate on the last day of the month before
7 the widow or widower—

8 “(A) dies; or

9 “(B) remarries before becoming 60 years of age.”.

10 (d) Section 8341(e)(2) of title 5, United States Code,
11 is amended by striking out “subsection (a)(4)” and inserting
12 in lieu thereof “subsection (a)(3)”.

13 SEC. 4. Section 8344(a) of title 5, United States Code,
14 is amended by striking out the last sentence and inserting in
15 lieu thereof the following: “If the annuitant is receiving a re-
16 duced annuity as provided in section 8339(i) or section
17 8339(j)(2) of this title, the increase in annuity payable
18 under subparagraph (A) of this subsection is reduced by 10
19 percent and the survivor annuity payable under section 8341
20 (b) of this title is increased by 55 percent of the increase in
21 annuity payable under such subparagraph (A), unless, at
22 the time of claiming the increase payable under such subpara-
23 graph (A), the annuitant notifies the Commission in writing
24 that he does not desire the survivor annuity to be increased.
25 If the annuitant dies while still reemployed, the survivor an-

1 nnuity payable is increased as though the reemployment had
2 otherwise terminated. If the annuitant dies while still reem-
3 ployed and the described reemployment had continued for at
4 least 5 years, the person entitled to survivor annuity under
5 section 8341(b) of this title may elect to deposit in the Fund
6 and have his rights redetermined under this subchapter.”.

7 SEC. 5. (a) The amendment made by the first section
8 of this Act is effective only with respect to annuity accruing
9 for full months beginning after the date of enactment of this
10 Act; but any part of a period of separation referred to in
11 such amendment in which the employee or former employee
12 was receiving benefits under subchapter I of chapter 81 of
13 title 5, United States Code, or any earlier statute on which
14 such subchapter is based shall be counted whether the employee
15 returns to duty before, on, or after such date of enactment.
16 With respect to any person retired before such date of enact-
17 ment, any such part of a period of separation shall be
18 counted only upon application of the former employee.

19 (b) The amendments made by sections 2(a) and 3
20 of this Act shall not apply in the cases of employees, Members,
21 or annuitants who died before the date of enactment of this
22 Act. The rights of such persons and their survivors shall
23 continue in the same manner and to the same extent as if
24 such amendments had not been enacted.

25 (c) The amendments made by section 2(b) of this Act

1 shall apply to an annuitant who was unmarried at the time
2 of retiring, but who later married, only if the election is made
3 within 1 year after the date of enactment of this Act.

4 (d) The amendment made by section 4 of this Act shall
5 apply only with respect to a reemployed annuitant whose
6 employment terminates on or after the date of enactment of
7 this Act.

8 SEC. 6. The Act of August 25, 1958 (72 Stat. 838;
9 3 U.S.C. 102, note), is amended as follows:

10 (1) Subsection (a) is amended to read as follows:

11 "(a) Each former President shall be entitled for the re-
12 mainder of his life to receive from the United States a
13 monetary allowance at a rate per annum, payable monthly
14 by the Secretary of the Treasury, which is equal to the an-
15 nual rate of basic pay, as in effect from time to time, of the
16 head of an executive department, as defined in section 101
17 of title 5, United States Code. However, such allowance shall
18 not be paid for any period during which such former Pres-
19 ident holds an appointive or elective office or position in
20 or under the Federal Government or the government of the
21 District of Columbia to which is attached a rate of pay
22 other than a nominal rate.";

23 (2) Subsection (e) is amended to read as follows:

24 "(e) The widow of each former President shall be en-
25 titled to receive from the United States a monetary allow-

1 of the Treasury, which is the same percentage of the per
2 annum rate of the monetary allowance provided for by sub-
3 section (a) of this Act as the percentage provided by section
4 8341(b)(1) of title 5, United States Code, for the computa-
5 tion of the annuity of the surviving spouse of a person who
6 died after having retired under subchapter III of chapter 83
7 of such title, relating to civil service retirement. The mone-
8 tary allowance of such widow—

9 “(1) commences on the day after the former Presi-
10 dent dies;

11 “(2) terminates on the last day of the month before
12 such widow—

13 “(A) dies; or

14 “(B) remarries before becoming 60 years of
15 age; and

16 “(3) is not payable for any period during which
17 such widow holds an appointive or elective office or posi-
18 tion in or under the Federal Government or the govern-
19 ment of the District of Columbia to which is attached a
20 rate of pay other than a nominal rate.”; and

21 (3) Subsection (f) is amended to read as follows:

22 “(f) As used in this section, the term ‘former President’
23 means a person—

24 “(1) who shall have held the office of President of
25 the United States of America;

12

1 nated other than by removal pursuant to section 4 of
2 article II of the Constitution of the United States of
3 America; and
4 "(3) who does not then currently hold such office."

Passed the Senate September 10, 1970.

Attest:

FRANCIS R. VALEO,

Secretary.

Union Calendar No. 715

91st CONGRESS
2d Session

S. 437

[Report No. 91-1469]

AN ACT

To amend chapter 83 of title 5, United States Code, relating to survivor annuities under the civil service retirement program, and for other purposes.

SEPTEMBER 14, 1970

Referred to the Committee on Post Office and Civil Service

SEPTEMBER 24, 1970

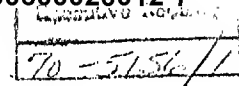
Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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CONCURRENCE		INFORMATION	SIGNATURE
<p>Remarks: Attached for your review and comment are draft amendments to the CIA Retirement Act based upon the so-called second spouse amendments to the Civil Service system, approved by the Senate and favorably reported, amended, by the House Committee. The other applicable concept in the Civil Service package is the deletion of dependency requirements for a widower in death-in-service cases.</p> <p>Your review at this time will give us a leg up if the Civil Service amendments are approved and if it is determined that we should seek similar amendments and are given an opportunity to incorporate them in the retirement package now on the Hill.</p> <p>As an aid in review we are also forwarding changes in CIA statute through proposed amendments and the Civil Service language as passed by the Senate.</p> <p>Please let us know if you do not have the copies of the Senate and House reports (91-1092 and 91-1469) on hand.</p> <p>[REDACTED]</p>			
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EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503



OCT 20 1970

Honorable Richard Helms
Director, Central
Intelligence Agency
Washington, D. C. 20505

Attention: Mr. John Maury
Legislative Counsel

Dear Mr. Helms:

This is in response to your request for advice on a draft bill "To amend the Central Intelligence Agency Retirement Act of 1964 for certain employees, as amended, and for other purposes."

This will confirm the informal advice given Mr. John Maury of your staff by Victor Zafra of this Office on October 12, 1970, that there is no objection, from the standpoint of the Administration's program, to the submission, as separate legislation, of Title II of the draft bill.

Also, as we advised your staff, we plan to review further with the Central Intelligence Agency and other interested agencies the questions of fully covering normal cost and the definition of unfunded liability with the objective of submitting legislation to the 92nd Congress.

Sincerely,

Wilfred H. Rommel
Assistant Director for
Legislative Reference

Attachment B



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

SEP 22 1970

Sir:

Reference is made to your request for the views of this Department on the Central Intelligence Agency draft bill, "To amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes."

Section 102 of the draft bill would add a new section 261(c) to the Central Intelligence Agency Retirement Act of 1964 which would require the Director of the Central Intelligence Agency (CIA) to notify the Secretary of the Treasury at the end of each fiscal year of the amount equivalent to: (1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the CIA Retirement and Disability System, and (2) that portion of disbursement for annuities for that year which the Director estimates is attributable to credit allowed for military service. Before closing the accounts for each fiscal year, the Secretary would be required to credit to the CIA Retirement and Disability Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated, the following percentages of such amounts: 10 percent for 1971; 20 percent for 1972; 30 percent for 1973; 40 percent for 1974; 50 percent for 1975; 60 percent for 1976; 70 percent for 1977; 80 percent for 1978; 90 percent for 1979; and 100 percent for 1980 and for each fiscal year thereafter.

Unfunded liability would be defined in the draft bill as the estimated excess of the present value of all benefits payable from the fund to participants and former participants, subject to the Act, and to their survivors, over the sum of -- (a) the present value of deductions to be withheld from the future basic pay of participants currently subject to the Act and of future agency contributions to be made in their behalf; plus (b) the present value of Government payments to the fund under section 261 of the Act (which presumably should read "section 261 (b)"); plus (c) the fund balance as of the date the unfunded liability is determined.

The draft bill would add a new section 261(b) to authorize appropriations to the Fund to finance the unfunded liability created by a statute that authorizes new or liberalized benefits, extension of coverage to new groups of employees, or increases in pay on which benefits are computed. Such appropriations would be

-2-

authorized in 30 annual installments with interest computed at the rate used in the then most recent valuation of the Central Intelligence Agency retirement system.

The material accompanying the draft bill indicates that the principal purpose of the proposed legislation is to improve the financing of the CIA retirement system by adopting the same funding procedures recently approved for the Civil Service (P.L. 91-90) and Foreign Service (P.L. 91-201) systems. The CIA retirement system and the Civil Service System, however, differ in one very vital respect. While the normal cost of the Civil Service system (about 14 percent) is approximately equal to the combined deductions and agency contributions to the system, this is not the case in the CIA retirement system where normal cost of 30.38 percent substantially exceeds agency-employee contributions of 16.67 percent. The disparity between normal cost and agency-employee contributions would result in a serious overstatement of the accrued liability of the CIA system under the definition of unfunded liability contained in the draft bill.

In accepted actuarial practice, accrued (i.e., past service) liability is defined as the total liability for benefits payable to the current active and retired force minus the discounted value of future normal premiums. The unfunded liability is simply the portion of the accrued liability not covered by the fund. (Normal cost is defined in the recently enacted Civil Service Retirement Amendments of 1969 as the entry-age normal cost computed in accordance with generally accepted actuarial practice and expressed as a level percentage of aggregate basic pay. Normal premium is the amount found by applying the normal cost percentage to the aggregate annual payroll.)

Under the CIA draft legislation, as in the Civil Service and Foreign Service acts, future agency -- employee contributions have been substituted for normal premiums in the definition of unfunded liability. In the case of CIA, because such contributions fall short of the normal premium by 13.71 percentage points, the unfunded liability would be increased by about 85 percent of the amount stated in the letter from CIA to the Bureau of the Budget. This overstatement of unfunded liability would result in the payment of interest by Treasury under section 261(c) on liability not yet accrued -- analogous to paying interest on debt not yet incurred -- and would correspondingly reduce the estimate prepared by the Director under section 261(a) of annual appropriations required to be made to the fund.

The existing Foreign Service Act contains the same defect,
 Approved For Release 2001/11/01 : CIA-RDP74B00415R000600020012-7

-3-

and agency-employee contributions are only 16.28 percent. The defect is only temporarily avoided in the Civil Service Retirement Amendments of 1969. If the normal cost of that system is recomputed using a more realistic valuation rate than the 3-1/2 percent now employed, normal cost would fall considerably and the unfunded liability, according to accepted actuarial practice would be very much understated under the existing definition. The understatement of unfunded liability would result in the Treasury paying interest on something less than the generally recognized accrued (i.e., past service) liability.

In addition, the definition of unfunded liability in the Civil Service, Foreign Service, and CIA draft legislation provides for the deduction of the present value of appropriations which would be deemed to be authorized by future legislation which creates new unfunded liability from the present value of benefits payable from the fund. Such a deduction completely disregards the accrual basis of the actuarial definition of unfunded liability, and is analogous to not recognizing a debt because a promise has been made to pay the debt in the future.

In order to be consistent with accepted actuarial practice, unfunded liability should be redefined in the Civil Service Act, the Foreign Service Act, and the CIA draft legislation along the following lines:

Unfunded liability means the estimated excess of the present value of all benefits payable from the fund over the sum of -

- (a) the present value of future normal premiums; plus
- (b) the fund balance as of the date the unfunded liability is determined.

A return to this standard definition of unfunded liability would also imply that the 30-year amortization payments provided for in the Acts and the draft bill should be reduced to principal only, since the unamortized obligation would be included properly as a part of the total unfunded liability on which interest would be paid currently.

-4-

In view of the foregoing the Department would be opposed to the draft bill.

Sincerely yours,

Roy T. Engle
Acting General Counsel


The Director

Office of Management and Budget

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Proposed CIA Retirement Act Amendments, "Second Spouse"

FROM: John M. Maury Legislative Counsel		EXTENSION 6121	NO. _____ DATE _____
TO: (Officer designation, room number, and building)	DATE	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
1 Office of General Counsel 7 D 01	8 FEB 1971	2/8/71 LAG	3 to 4 and 5: Paragraph 2 of Jack Maury's memorandum is included to cover all the provisions of P.L. 91-658. This provision has no current application to retirees under the CIA Retirement System since we have no provision for a supplemental annuity. A CIARDS annuitant re-employed elsewhere in the Federal Government can earn only Social Security benefits. As indicated in Jack's memo, application of the supplemental annuity concept to the CIA system would require a complex new formula governing the relationship of CIARDS retirement income to the pay earned on re-employment under the Civil Service system. Until this problem is resolved and our Act amended accordingly, we need not concern ourselves with the Civil Service change relating to supplemental annuities. You will note that this item is not included in the attached proposed amendments to our Act. <div style="text-align: right; margin-top: 20px;">  Director of Personnel </div>
2 Director of Finance 1212 Key Building		7/10 KB	
3 Director of Personnel 5 E 56	19 FEB 1971	HBF	
4 Deputy Director for Support 7 D 26		2/8/71 JLB	
5 Executive Director-Comptroller 7 D 59	2/23	2/25 LWB/618	
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<p>Remarks:</p> <p>The attached recommends that we initiate action now to obtain CIA Retirement Act amendments paralleling the so-called "Second Spouse" amendments recently enacted for Civil Service.</p> <p>If you approve the recommendation, we will draw up and send to OMB the standard legislation package for their review (draft bill, justification and explanation, and proposed letters to the Speaker and President of the Senate).</p>					
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		ID PHONE NO.		DATE	
		John M. Maury		23/2/71	
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